

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES,

Plaintiff,

vs.

PAYTON M. SAUSEN,

Defendant.

CASE NO. 4:21CR3099

WAIVER OF PERSONAL
APPEARANCE AT INITIAL
APPEARANCE
AND ORDER

The defendant was taken into custody when at her sentencing, she appeared to be mentally incapacitated due to the use of illegal drugs, fasting, and dehydration. Petitions were filed which allege she violated the terms of her pretrial release. The Amended Petition includes all the allegations of pretrial release violations currently pending against her.

The defendant was mentally incapacitated when the Amended Petition was filed, and it was unclear when her mental state would recover such that the court could sufficiently inform her of the charges and her rights. Accordingly, with the agreement of her counsel, the court did not set an initial appearance on the Amended Petition. Instead, Defendant's counsel will meet with Defendant to convey this information.

To that end, the court requires the following written affirmations (mark the checkbox to confirm Defendant's receipt and understanding):

- ☒ The defendant received a copy of the Amended Petition for Action on Conditions of Pretrial Release;
- ☒ The defendant understands she is entitled to appear personally before the Court to be advised of the charges and the possible penalties, and she voluntarily waives that right;
- ☒ The defendant understands the charges in the Amended Petition, and she understands that, if guilty of those charges, her possible penalty includes jail;

☒ The defendant understands she is entitled to a hearing to determine if she must remain detained pending sentencing, and she hereby (circle one) [waives] ~~[demands]~~ that hearing;

☒ The defendant understands she has a right to remain silent as to the allegations within the Amended Petition, and she understands that what she chooses to say about those allegations can be used against her in court;

☒ The defendant understands that her court-appointed counsel represents her on these charges at no cost to Defendant;

☒ The defendant understands she has the right to a hearing before the undersigned magistrate judge regarding the allegations in the Amended Petition, and if a hearing is held, she will see and hear any government evidence offered in support of the allegations; and she can:

- have her attorney cross-examine any witnesses who testify against her,
- call witnesses to testify for her and use the court's subpoena power, if necessary, to secure their attendance at the hearing, and
- testify on her own behalf or stay silent.

Defendant understands that if she chooses to stay silent at the hearing, the court will not consider that silence in deciding whether the allegations within the Amended Petition are true.

With an understanding of all the rights described above, the defendant (circle one) [Admits] ~~[Denies]~~ ~~[Stands Mute]~~ as to the allegations in the Amended Petition for Action on Conditions of Pretrial Release.


Defendant

03/28/23
Date


Defense Counsel

3/28/23
Date

ORDER

IT IS ORDERED that Defendant's waiver of an initial appearance on the Amended Petition for Action on Conditions of Pretrial Release is hereby accepted.

DATED this 30th day of March, 2023.

BY THE COURT:



MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT